REMARKS

Reconsideration is requested in view of the amendments presented above and the remarks which follow. Claims 60-67, 70, 72-73, 75-83, 86, 88-91 and 107-111 have been presented for examination, as claims 92-106 stand as withdrawn. Herein, claims 60, 62, 81, 82, 91 and 111 have been amended, without prejudice or disclaimer and solely as an expedient to advance prosecution. Claims 112 and 113 have been added. No claims have been canceled. No new matter has been added by these amendments.

Amendments have been made to the claims to improve their clarity and, to the extent discussed herein, to address certain matters raised in the Office Action. Support for the amendments made can be found at least at page 9 line 34 to page 11, line 25. New claims 112 and 113 find support at least at page 11, lines 3-25.

Preliminary Comments

Applicant thanks the Examiner for the careful review of the prior response and for the detailed explanations of how the Examiner has analyzed Applicant's arguments and how the Examiner reads the Yuhara reference. Those explanations have greatly facilitated this response.

Claim Rejections - 35 USC § 101

Claims 60, 62, 91 and 111 have been rejected under 35 U.S.C. § 101 for purportedly being directed to non-statutory subject matter.

Without conceding that the rejection was proper, which Applicant disputes, Claim 60 has been amended to state that a key is selected at a server and that data including the key is distributed from the server to devices in the network. Thus, the claimed method is implemented using – i.e., "tied to" - positively recited particular apparatus (server, devices, network) and hence defines statutory subject matter even under the strict *Bilski* "machine or transformation" test. Claim 62 has

been similarly amended to clarify that the method is performed at and by the device and hence also defines statutory subject matter.

The rejection of claim 91 was based on the Examiner reasoning that, in light of the specification, "the applicant intended to claim software per se." Office Action, page 7, para. 13. It is unclear how the Examiner could reach that conclusion in light of the claim calling for "means for selecting devices to be members of the target set" and "means for distributing data to at least each selected device." A computer program by itself cannot perform these functions. The Examiner appears to have imported limitations of a specific embodiment into the claim, or to have misinterpreted the relationship between the claim and the specification. However, without conceding that the rejection was proper, which Applicant disputes, Claim 91 has been amended to require that the system includes a server and at least one device. It thus can no longer be argued that the claim defines software per se or that the cited portion of the specification requires that the claim be interpreted to have that intended scope. Therefore, claim 91 now recites apparatus and apparatus is manifestly statutory subject matter.

Claim 111 was rejected as non-statutory on the ground that "the applicant intended to claim data signal per se as a medium," citing to page 6, lines 23-31. The citation is inapposite. The cited passage does not refer to a "computer readable medium comprising instructions" but to a medium which conveys signals to an STB. Though the word "medium" is used in both instances, the context is quite different, as is the way one skilled in the art would understand the two disparate usages. The passage at page 6, lines 23-31 has nothing to do with the invention Applicant intended to claim in claim 111. So the Office Action bases the rejection on an incorrect premise. Nevertheless, to advance prosecution toward allowance, claim 111 has been amended to exclude an intangible data signal per se from the scope of the claim, reciting instead a tangible storage medium, which is a physical device and hence statutory subject matter. Specifically, per Director Kappos' announcement of January 26, 2010 at http://www.uspto.gov/patents/law/notices/101_crm_20100127.pdf, the medium is now limited to being "non-transitory" and it is also redundantly limited to being a "storage" medium (Applicant believes all storage media are non-transitory and that any non-

transitory medium is a storage medium). The specification makes clear that the medium reads on memory 38, which is a physical storage medium that is not transitory.

Applicant confirms that claim 111 is an independent claim.

These rejections should accordingly be withdrawn.

Claim Rejections - 35 USC § 102

Claims 60-67, 72-73, 75-83, 91 and 111 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Yuhara (US 2008/0176510). These rejections, as they may be attempted to be applied to the amended claims, are respectfully traversed.

General comments concerning the claimed invention and prior art

Yuhara has been cited by the Examiner as anticipating each of the independent claims. However, it is believed that this is based on a misunderstanding of Yuhara and/or the claimed invention. Before the specific rejections and claims are addressed, it may therefore be helpful to set out in general terms the distinctions between the invention as claimed and the disclosure of Yuhara.

Yuhara discloses two types of identifiers that may be used by a receiver: (1) an individual identifier (which may be a unique serial number associated with a receiver; para. 0044), and (2) group identifiers.

At page 3, first full paragraph of the Office Action, the claimed unique identifier is equated to the individual identifier of a receiver as disclosed in Yuhara. However, in subsequent comments (in particular page 4, first full paragraph), the Office Action then appears to equate the claimed unique identifier to the group identifiers of Yuhara. However, *group* identifiers are by definition not unique to a receiver. Their name even says as much. Even where a receiver includes a combination of group identifiers, that combination is not necessarily unique to the receiver – many receivers may have that combination (the combination merely defines a subgroup, e.g. "2002 Honda Accord vehicles"; para 0037).

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For these reasons, the claimed "unique identifier" cannot be equated with *both* the individual identifier *and* the group identifiers of Yuhara. To do so not only makes the Office Action inconsistent with Applicant's disclosure, but also makes the Office Action internally inconsistent.

In support of the Examiner's interpretation, the Office Action states that the receiving device's individual identifier would encompass all group identifiers (Office Action, Response to Arguments, page 4 lines 11-13). However, this is simply not disclosed in Yuhara – in fact , quite the *opposite* is true. Specifically, in Yuhara, *individual* identifiers (which may comprise or relate to a serial number; para. 0035) are completely **separate** from any *group* identifiers (e.g. identifying vehicle models, vehicle features etc.; paragraph 0036). This is emphasised by the fact that they are shown as separate entities in Figure 3 (individual ID 340 and group ID 342), and listed separately in associated paragraph 0044. Individual and group identifiers are separate components of what is referred to as locally stored identifier information 338. There is simply nothing in Yuhara to suggest that the *individual* identifier 340 (which may uniquely identify a receiver based on serial number) somehow *includes* or encompasses – or is in any way related to – the group identifiers 342 as suggested by the Examiner. Furthermore, as mentioned above, even a particular combination of group identifiers stored at the receiver is not necessarily unique to that receiver, and such a combination can thus also not be equated to the claimed "unique" identifier.

Yuhara also discloses other types of identifiers but these function essentially as group identifiers (albeit dynamically determined, such as an area ID determined from a GPS location, a vehicle ID determined from vehicle status, or a category ID determined by user selection of desired message categories; paragraphs 0038-0042).

In Yuhara, two distinct message addressing approaches are disclosed. Firstly, a message may be directed to an individual receiver by use of its individual identifier (paras. 0035, 0063). As a variation of this approach, the message may include multiple individual identifiers to thereby address multiple specific receivers (paragraph 0032). This approach is used to set up group identifiers at receivers prior to sending out messages using the group identifiers, and requires the individual identifiers of each target receiver to be listed separately.

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Secondly, a message may be directed to a group of receivers by use of one or more group identifiers (paras. 0036-0037, 0061-0062). In this case, any receiver with the group identifier (or particular combination of group identifiers) specified in the message will receive the message.

Thus, groups of receivers can be addressed either by listing each receiver's individual identifier explicitly, or by using group identifiers (which by definition are *not* unique to a receiver).

There is no disclosure, however, of transmitting a message to a group of receivers using a *single key* that matches each of the targeted receivers' unique identifiers, as in the claims herein. AS expressed in certain of the claims, this is achieved by matching the key against a substring of each receiver's unique identifier. Thus only the substring being compared needs to match the key in order for the device to be identified as an intended recipient. Although device identifiers as a whole are unique, shorter-length substrings of the identifiers may not be unique in the population of devices. Thus, multiple device identifiers may have shorter-length substrings in common, which can be matched against the key, as illustrated in the following diagram (for two devices having respective identifier strings "ab1001" and "ab1432"):

Device ID #1	a	b	1	0	0	1
Device ID #2	a	b	1	4	3	2
Key	a	b	1			

Thus, though the two device identifiers are distinct, they have a shorter-length substring in common ("ab1"), which matches the key provided. In this way an *ad hoc* grouping of devices can be defined by specifying an appropriate key value, *without having to manage and distribute group identifiers beforehand, and without having to explicitly list a (potentially large) number of individual identifiers in a message.*

Yuhara does not disclose or suggest this approach. Specifically, Yuhara does not disclose comparing the broadcast identifier in the datagram header (or an element thereof) to a *substring* of a

receiver's *individual* identifier. Instead, a receiver's individual identifier is compared only <u>as a</u> <u>whole</u> to an individual identifier specified in a broadcast datagram. Furthermore, in Yuhara, *group* identifiers specified in a datagram are never compared to a receiver's *individual* identifier, but only to *group* identifiers previously installed at the device.

Thus, for the reasons given above, the invention as claimed in each of the independent claims differs patentably from Yuhara, and these claims are therefore novel over (and correspondingly not anticipated by) Yuhara. Nevertheless, the following specific comments are additionally given in respect of individual claims.

Claim 60

Claim 60 recites, *inter alia*, "selecting a key at the server, wherein the key is selected so as to match a substring of the unique identifier of each device in the target set, the substring matched for each device having a second length shorter than the first length". As set out in the general comments above, Yuhara fails to disclose selecting a key in this way and distributing data to devices using that key as claimed.

Instead, in Yuhara – as previously explained – a datagram is sent either with a list of unique identifiers for matching (completely) unique identifiers of specific receivers, or with group identifiers for matching group identifiers stored at the receivers. There is no disclosure or suggestion of sending a key which matches a substring of each target device's unique identifier as in the present invention.

Accordingly, Yuhara does not anticipate Claim 60, and this rejection should be withdrawn.

Claim 62

Claim 62 recites, *inter alia*, "comparing, by the device, the received key to a shorter length substring of the unique identifier string" where the unique identifier is a string of bits or characters which uniquely identifies the device. As set out in the general comments above, there is no

disclosure in Yuhara of comparing a key to a shorter-length substring of a unique identifier of a device. The rejection of claim 62 should accordingly be withdrawn.

Claim 81

Claim 81 recites, *inter alia*, "wherein the update routine is configured to compare the key to a shorter length substring of the device's unique identifier string and to download the data if the key matches the substring". As set out above, there is no disclosure in Yuhara of comparing a key to a shorter-length substring of a unique identifier of a device. Thus, claim 81 is not anticipated and the rejection should be withdrawn.

Claim 91

Claim 91 recites, *inter alia*, a device having "means for comparing a shorter-length substring of the unique identifier to the key; and means for storing the data at the device if the substring matches the key". As set out above, there is no disclosure in Yuhara of comparing a key to a shorter-length substring of a unique identifier of a device, and so claim 91 is not anticipated. The rejection of claim 91 should accordingly be withdrawn.

Claim 111

Claim 111 incorporates the features of claim 60 by way of a reference to that claim and is therefore patentably distinct over Yuhara for the reasons given above.

Claims 61, 63-67, 72-73, 75-80, 82-83

Claims 61, 63-67, 72-73 and 75-80 depend directly or indirectly from independent claim 60 and claims 82-83 depend from independent claim 81. These claims inherit the features of their associated independent claims by virtue of their dependency. Hence they are hence patentably distinct over Yuhara for the reasons given above in relation to the corresponding independent claims. These rejections thus should also be withdrawn.

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Claim Rejections - 35 USC § 103

Claims 88-89 and 107-109 have been rejected under 35 U.S.C. § 103(a) as purportedly being unpatentable over Yuhara in view of Wasilewski (US2004/0107350).

Claims 88-89 depend from independent claim 81. Claims 107-109 depend directly or indirectly from independent claim 60. Wasilewski fails to address the deficiencies of Yuhara identified above in respect of claims 60 and 81 (and as discussed in the general comments section). Without limitation, in particular, Wasilewski fails to disclose or suggest matching or comparing a substring of a device's unique identifier to a received key to determine if data is intended for the device. Accordingly, even if Yuhara and Wasilewski are properly combinable (a point Applicant does not concede but finds it unnecessary to discuss), such combination would not provide a method or apparatus satisfying all limitations of claims 88-89 and 107-109. Thus, this combination would not support a rejection under rationale "A" of MPEP 2143, or any other basis for an obviousness rejection that is apparent to Applicant. Such claims therefore define subject matter which is non-obvious over the combined disclosures of Yuhara and Wasilewski as a matter of law and fact, and these rejections should be withdrawn.

Claims 70, 86, 90 and 110 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Yuhara in view of known practices in the art. Claims 70 and 110 depend from independent claim 60, and claims 86 and 90 depend from independent claim 81. These dependent claims are allowable at least because they inherit the allowability of the independent claims from which they depend.
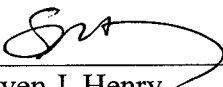
CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time.

If there is a fee occasioned by this response, including an extension fee, the payment of which has not otherwise been made or authorized, the Director is hereby authorized to charge any deficiency or credit any overpayment in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 23/2825, under Docket No. M0274.70040US00 from which the undersigned is authorized to draw.

Dated: March 11, 2010   Respectfully submitted,

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